

SERVED: December 3, 1992

NTSB Order No. EA-3750

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 1st day of December, 1992

_____)	
THOMAS C. RICHARDS,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-10580
v.)	
)	
DOUGLAS JACKSON COOMBS,)	
)	
Respondent.)	
_____)	

ORDER GRANTING STAY

Respondent, by counsel, has requested a stay of NTSB Order EA-3609 (served July 10, 1992) pending disposition of a petition for review of that order to be filed in the U.S. Court of Appeals.¹ For the reasons discussed below, the request, opposed by the Administrator, will be granted.

As the Administrator correctly notes, citing Administrator v. Green, NTSB Order No. EA-3375 (1991), the Board's policy in revocation cases is not to grant stays of its orders pending judicial review. That policy, in part at least, reflects a judgment that where the Board has upheld a determination by the Administrator that a certificate holder lacks qualification, the stay of sanction effected by the appeal to the Board should not be continued, given the serious threat to air safety that

¹The Board in Order EA-3609 affirmed an order of the law judge dismissing as untimely respondent's appeal to the Board from an order of the Administrator revoking his commercial pilot certificate. Board Order EA-3685 (served September 29, 1992) denied respondent's petition for reconsideration of Order EA-3609.

unqualified certificate holders pose.² In this case, however, the respondent's appeal was dismissed on a procedural ground. Consequently, there has been no adjudicatory corroboration of the Administrator's conclusion that respondent committed violations establishing that he does not possess the care, judgment, and responsibility required of a certificate holder. That circumstance, in the context of this proceeding, supports preserving the status quo pending resolution of respondent's effort to persuade the Court of Appeals that the Board erred by not allowing his case to proceed to a hearing on the merits.

ACCORDINGLY, IT IS ORDERED THAT:

The effective date of Order EA-3609 is stayed until November 28, 1992, which marks the expiration of the 60-day period within which a petition for review may be filed with the Court of Appeals. If such a petition is filed on or before that date, the stay will continue in effect until the Court enters judgment on the petition.

Daniel D. Campbell
General Counsel

²Under Section 609(a) of the Federal Aviation Act of 1958, as amended, 49 USC § 1429(a), in non-emergency cases, "[t]he filing of an appeal with the Board shall stay the effectiveness of the Administrator's order...."